

# **False Security: Amending UN Chapter VII**

**A Monograph  
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## **Abstract**

FALSE SECURITY: AMENDING UN CHAPTER VII by MAJ Melinda M. Mate, Army, 47.

Threats to peace, violations of security and challenges to world order, which led to the creation of the United Nations (UN) in 1945 will continue. States and state-like entities will continue to approach the UN with their grievances. The credibility and global relevance of the UN hinges on its ability to uphold and enforce its Charter. The UN Security Council invokes Chapter VII of the UN Charter through the use of sanctions and / or subsequent military action when there is a threat to peace and security. Chapter VII resolutions, however, do not always meet their objectives. If Chapter VII reform results in a clearer mission statement with realistic ends, ways, means and parameters in which to operate, the UN will be more reliable and effective in providing global security.

The relationship between the UN and the rest of the world is based on perceptions of capability. The United States's perception of the UN is driven by the reality that in all cases of Chapter VII sanctions where the sanction evolved into military enforcement, the US was involved. This often resulted in a perception that the UN was unable to carry out Chapter VII operations. Though primarily due to the UN's membership not providing the UN with the ways and means to live up to its Chapter VII responsibilities, a shift in thinking could improve the UN's credibility. Member nations can transform the UN into one that promotes its strengths and eradicates its weaknesses.

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## CHAPTER ONE

### INTRODUCTION

In October 1999, the United Nations Security Council published a Chapter VII Resolution asserting "the suppression of international terrorism is essential for the maintenance of international peace and security."<sup>1</sup> The Council also strongly condemned "the continuing use of Afghan territory, especially areas controlled by the Taliban, for the sheltering and training of terrorists and planning of terrorist acts."<sup>2</sup> The Council admonished the Taliban for harboring Osama bin Laden, the leader of the Al Qaeda terrorist network, who was wanted in conjunction with the 1998 bombings of United States embassies in Tanzania and Kenya. The Taliban's refusal to surrender Osama bin Laden to United States authorities constituted "a threat to international peace and security."<sup>3</sup> In addition, the Council imposed sanctions on Afghanistan requiring UN member states to uphold "a flight ban on any aircraft owned, leased or operated by or on behalf of the Taliban and freeze funds directly or indirectly owned or controlled by the Taliban."<sup>4</sup> A subsequent Chapter VII resolution (1333) was published in December 2000 to further isolate Afghanistan through the tightening of sanctions. Under Chapter VII, the Security Council could have called on the use of military force to achieve its objective. The Council did not move to authorize the use of military force to enforce the sanctions even after it became clear the Taliban was not going to comply with the UN resolutions. This highlights the disparity in what the UN Charter claims it can do and the United Nation's inadequacy in enforcing Chapter VII.

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<sup>1</sup> UN Security Council, Security Council Resolution 1267, S/RES/1267(1999).

<sup>2</sup> Ibid.

<sup>3</sup> Morton H. Halperin, "Collective Security," *The American Prospect* 12, no. 18, (2001). Internet site: <http://www.prospect.org/print/V12/18/halperin-m.html>, accessed 21 March 2003.

<sup>4</sup> UN Security Council, Security Council Resolution 1333, S/RES/1333(2000).

The events of September 11, 2001, spawned a host of analysts' assessments on what went wrong, what went right, and what the world should do. One analyst, Dr Morton H. Halperin,<sup>5</sup> published "Collective Security" in the October 22, 2001 issue of *The American Prospect*. In this article, Halperin credited the United Nations (UN) with having initiated the war on terrorism by targeting Afghanistan with Chapter VII sanctions in 1999 and 2000. However, the UN did nothing more than publish a series of resolutions that its member states did not universally support<sup>6</sup> or uphold and that the UN could not enforce when demands were not met.<sup>7</sup> It was only after the September 11, 2001 terrorist attacks in the United States that assets were totally frozen and flight bans were completely enforced.

Halperin suggested the UN Security Council demand the immediate surrender of Osama bin Laden and impose a total embargo on Afghanistan until the Taliban complied. This advice, remarkably similar to the verbiage from the previous UN resolutions, leads one to wonder whether the UN can proceed beyond Chapter VII sanctions. Halperin also recommended the US "call upon the United Nations Security Council to handle this crisis."<sup>8</sup> The UN, however, had already demonstrated it could not drive the hunt for Osama bin Laden. Halperin did advocate the development of US military plans and Security Council authorization of a US led coalition to enforce the sanctions in Afghanistan. In this way he acknowledged the UN is lacking in the ability to plan and execute military operations. The UN was not entrusted with the mission of leading the military operation against the Taliban and Al Qaeda. The US did go to the UN, not for authorization for a US led UN coalition against the Taliban, but to legitimize US led coalition

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<sup>5</sup>Dr Halperin served in both the Johnson and Clinton administrations. He is currently a Senior Fellow of the Council on Foreign Relations based in its Washington Office Internet site: <http://www.clw.org/coalition/halperin.htm>, accessed 1 April 2003.

<sup>6</sup>Britain, Canada, Netherlands did not support sanctions against Afghanistan. Ewan MacAskill, *The Guardian*, 22 December 2000. Internet site: <http://www.guardian.co.uk/international/story/0,3604,414566,00.html>, accessed 23 March 2003.

<sup>7</sup>Halperin.

<sup>8</sup>Ibid.

activities on the international stage.<sup>9</sup> These maneuverings, however, left the door open for subsequent UN led peacekeeping operations in Afghanistan.<sup>10</sup>

Chapter VII of the Charter is designed to provide the UN the teeth to “maintain international peace and security” in order “to develop friendly relations among nations; to cooperate in solving international economic, social, cultural and humanitarian problems and in promoting respect for human rights and fundamental freedoms; and to be a centre for harmonizing the actions of nations in attaining these ends.”<sup>11</sup> However, differences between the way Chapter VII is written and the UN’s ability to invoke its use leads to the determination that the UN advertises a capability it does not have. Though the UN was envisaged to have a military force “coordinated by a Military Staff Committee” and able to wage a “collective response to aggression,” they never materialized.<sup>12</sup> The inability of the UN’s Military Staff Committee<sup>13</sup> to garner armed forces contributions for use by the Security Council hampered the UN’s enforcement of Chapter VII throughout its history. This has contributed to the UN as being perceived as a weak player on the world stage. This also demonstrates a need to revise Chapter VII of the UN Charter.

## Background

Established by the Allies on the heels of victory in World War II, the United Nations<sup>14</sup> evolved as the world celebrated the annihilation of threats to global security and order. The time

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<sup>9</sup> Michael J. Jordan, “Why You Won’t See UN Blue Helmets in Afghanistan,” *The Christian Science Monitor*, 18 December 2001. Internet site: <http://www.csmonitor.com/2001/1218/p7s1-wogn.html>, accessed 23 March 2003.

<sup>10</sup> Mike Jendrzejczyk, “A Major U-Turn in U.S. Policy on Peacekeeping Afghanistan,” *The International Herald Tribune*, 7 September 2002. Internet site: <http://www.hrw.org/editorials/2002/afghan0907.htm>, accessed 20 March 2003.

<sup>11</sup> UN Secretariat, “Basic Facts about the UN,” 2003. Internet Site: <http://www.un.org/aboutun/basicfacts/unorg.htm>, accessed 30 January 2003.

<sup>12</sup> David J. Whittaker, *United Nations in Action*, (Armonk, New York: M.E. Sharpe, 1995), 10.

<sup>13</sup> UN Charter, Chapter VII, Article 47. MSC is “responsible for the strategic direction of any armed forces placed at the [UN’s] disposal.” Vincent considers the MSC as nonfunctional. Jack E. Vincent, *A Handbook of the United Nations*, 2nd ed., (Woodbury, New York: Barron’s Educational Series, Inc., 1977), 157.

<sup>14</sup> For additional information on the foundation of the UN, see Michael Howard’s article “The Historical Development of the UN’s Role in International Security,” *United Nations: A World*

was 1945, and the Allies had saved the world from fascist domination. Even a world army to maintain peace for all time was in the realm of possibility. The basis of the United Nations is its Charter, which was unanimously adopted at the San Francisco Conference in the spring of 1945 by fifty attending members. The UN Charter is the “legal document providing for the objectives, procedures and organs with their relationships and power of the United Nations system.”<sup>15</sup> Chapters VI and VII of the UN Charter cover the “settlement of disputes.” Chapter VI deals with disputes and situations likely to endanger international peace and security and is invoked for peacekeeping operations. Chapter VII applies when the Security Council determines that there is a “threat to the peace” a “breach of the peace” or “acts of aggression” within the international community.<sup>16</sup> Chapter VII also “details Security Council responsibilities in respect to the collective security functions of the United Nations.”<sup>17</sup> The Security Council is comprised of the original big Five (China, France, Great Britain, Russia and United States) and ten rotating members (see Appendix C for Security Council functions and powers).

The UN Chapter VII Articles 39, 40, 41, and 42 denote a sequence of actions, starting with pronouncements of disapproval, moving to blockades, and culminating with offensive military action. Each article builds on the other and requires a stronger stance to enforce. Under Chapter VII, the Security Council issues resolutions to restore peace and security (Article 39); call upon disputants to comply with provisional measures (i.e. cease fire, Article 40); and/or make decisions in respect to non-military measures (i.e., severance of economic relations, Article 41); and/or military measures (Article 42). The failure of the UN to secure arrangements for armed forces contributions to be made to the Security Council under Article 43, limits the UN to deciding upon purely non-military measures and merely recommending military measures.<sup>18</sup>

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*Divided*, Adam Roberts and Benedict Kingsbury, eds., (Oxford: Clarendon Press, 1993) and Evan Luard, *The United Nations: How it Works and What it Does*, 1994.

<sup>15</sup> Vincent, 5-6.

<sup>16</sup> UN Secretariat, UN Charter, Chapter VII, Article 39.

<sup>17</sup> Vincent, 5.

<sup>18</sup> Ibid.

The most frequently used Chapter VII Article is Article 41 under which the Security Council calls upon Member States to apply sanctions. These economic measures “are supposed to persuade rulers to change their military, economic, or human rights policies, so as to end wars, civil conflicts or other crisis that threaten international peace.”<sup>19</sup> “They do not involve the use of armed forces in order to maintain or restore international peace and security.”<sup>20</sup> “The Security Council has invoked Chapter VII of the United Nations Charter to impose sanctions in fourteen cases.”<sup>21</sup>

## **The UN and the US**

As the UN grew the US stature in the organization seemed to erode over time. In the nearly sixty years of the UN’s existence there have been times the US was very much involved, and others when there was a sense of US indifference to UN issues. Many of the cases presented in Chapter 2 offer examples of a dichotomy of views on policy strategy. A permanent member on the Security Council, the US participated in many of the Cold War confrontations played out with Security Council members vetoing each other’s initiatives. At the beginning of the 1990’s there was a wave of renewed US interest in the UN with the pronounced support of President George Bush and his aim to make the UN a central player in his New World Order.<sup>22</sup> Prior to this, the US had had little experience in UN humanitarian operations.

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<sup>19</sup> UN Security Council, UN Sanctions. Internet site:

<http://www.globalpolicy.org/security/sanction/theindex.htm>, accessed 15 March 2003.

<sup>20</sup> UN Secretariat, Officer of the Spokesman for the Secretary, “Use of Sanctions under Chapter VII of the UN Charter,” 2003. Internet site: <http://www.un.org/News/ossg/sanction.htm>, accessed 20 January 2003.

<sup>21</sup> UN Secretariat, Officer of the Spokesman for the Secretary, “Use of Sanctions under Chapter VII of the UN Charter,” 2003. Internet site: <http://www.un.org/News/ossg/sanction.htm>, accessed 20 January 2003.

<sup>22</sup> Ivo H. Daalder, “Knowing When to Say No: The Development of US Policy for Peacekeeping” in *UN Peacekeeping, American Policy, and the Uncivil Wars of the 1990s*, William J Dorch, ed., (New York: St. Martin’s Press, 1996), 35-37.

The expansion of UN operations was viewed with disdain by the US military.<sup>23</sup> However, the 1990's also saw the evolution of full spectrum operations in military doctrine. The UN has limited credibility with the US is partly due to the UN's performance under Chapter VII of the UN Charter, as well as, the US's experiences with UN peacekeeping in the 1990s. The US recognizes the UN is weak in its role as enforcer. However, the US does not support relinquishing to the UN the means to execute an effective military operation. The adaptation of work-arounds to Article 43 has often involved the UN contracting out for its Chapter VII forces from its members. Historically, the US has taken the leading role when Chapter VII military action was involved. In many of these cases, however, the military interventions went beyond the real scope of Chapter VII. In addition, the US has been called upon to relieve the pressure on UN peacekeepers ill equipped for crisis escalation.

The UN and the US both use the same tools to enforce policy: sanctions and military force. Other nations and regional coalitions also impose sanctions on nations targeted by UN sanctions. In many cases, these sanctions are imposed sooner and last beyond the duration of UN sanctions. This double jeopardy is, in effect, a redundant effort. Additionally, member nations', to include the US, interest in imposing justifiable policy with military force is not always congruent with the UN. This leads to the formation of temporary coalitions outside the UN for military action.

Though the UN is only able to partially implement its Chapter VII Charter requirements, the UN's role in other areas has expanded. The UN's focus in crisis regions make them the resident experts on the leaders, culture, geography and the political geometry. There is room for mutual respect, but not when the UN's credibility is affected by its performance in areas where it is literally operating with one hand tied behind its back.

The global war on terrorism shifted US policy and there is greater interest in intervention. Both the UN and the US are participants against this growing threat to peace and security. The

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<sup>23</sup> General Powell was concerned with losing "focus of why you have armed forces - to fight and win the nations wars" in Daalder, 42.

UN and the US should have complementary goals and nested missions or a “confluence of interests”<sup>24</sup> in the campaign against threats to international peace and security. Reforming Chapter VII of the UN’s Charter, could improve the UN’s credibility and lead to a better partnership between the US (military) and the UN.

## **The Research Question**

The UN is only as strong as its Charter, which derives its strength from the unified will of its members to enforce its recommendations and resolutions. Chapter VII has never been used to its full potential and its reform is needed to make the UN a more relevant institution. Though the UN Charter allows for changes under Articles 108-109 this critical Chapter of the UN Charter has never been revised. In comparison, the United States Constitution (in effect the US’s Charter) was initially revised after just ten years with the addition of the Bill of Rights. How effectively has the UN implemented Chapter VII in the past, how can the United Nations fully enforce Chapter VII resolutions, where it stands in this regard, current thoughts on chapter VII revision and the ramifications of changing and or enabling Chapter VII are the subordinate issues addressed in order to formulate a conclusion.

Fourteen case studies provide examples from which to learn about the current Chapter VII process and assess its strengths and weaknesses. An appraisal of the views on Chapter VII, to include recommendations for change, using the FAS test provides possible ideas for the way ahead to fix the shortcomings reviewed in the case studies. Recommended changes to the UN’s Chapter VII are offered at the end of the study with the ultimate goal of making the UN a more credible organization, better able to support global security efforts by focusing its functions.

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<sup>24</sup> Richard E. Bissell, “U.S. Participation in the UN System,” *The U.S., the UN and the Management of Global Change*, Toby Trister Gati, ed., (New York: New York University Press,

## CHAPTER TWO

### UN CHARTER - CHAPTER VII SANCTIONS CASE-STUDIES

The United Nations Charter is the formative document for an organization comprised of 191 countries (as of February 2003) representing the majority of the earth's populace, cultures, issues and nuances. UN Charter reform is a contentious issue facing member nations and in the case of Chapter VII requires a major attitude shift.<sup>25</sup> The case studies that follow present aspects of Chapter VII that merit reform and a change in attitude.

#### **Multiple cases of (UN) Chapter VII**

This study focuses on the UN's use of Chapter VII sanctions under Article 41:

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.<sup>26</sup>

Resolutions are made under the assumption that all members will honor and impose the sanctions. The sanctions are normally monitored by sanction monitoring agencies (also designated by UN Chapter VII resolutions). These agencies are not currently standardized nor organized to provide full monitoring coverage.

Since its inception, the United Nations has implemented sanctions against fourteen countries: Afghanistan, Angola, Ethiopia and Eritrea, Haiti, Iraq, Liberia, Libya, Rwanda, Sierra Leone, Somalia, South Africa, Southern Rhodesia, Sudan and the former Yugoslavia. In a few cases sanctions were superceded by more stringent military measures under Article 42 of Chapter VII. One way to evaluate Chapter VII sanctions is to gauge their effectiveness by determining the

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1983), 97.

<sup>25</sup> But not as James Rosenau describes - a shift in the mental construction from nation-state sovereignty to international organizations or actors. James Rosenau, *The United Nations in a Turbulent World*, (Boulder, Colo.: Lynne Rienner Publishers, 1992), 61.

<sup>26</sup> UN Charter, Article 41.

following. First, the initial reason(s) for imposing Chapter VII measures. Second, the belligerents' response to the measures. Third, whether the measures achieved their objectives. Fourth, if they did not achieve their objectives, whether subsequent use of Chapter VII's more stringent articles could have achieved the sanctions aims. Fifth, whether Chapter VII enabled the UN to enforce the sanctions. The fourteen case studies are organized by the categories of threats to international peace: war, civil conflict or crisis (terrorism, coup, harboring of criminals).

This study cannot do justice to the scope of influences and situation specific issues. They are examples by which to gauge the effectiveness of Chapter VII resolutions, relate them to the level of implementation used to enforce them, and have the added benefit of hindsight. The cursory overview also provides a better insight into the process of Chapter VII invocation and a basis of understanding views on Chapter VII reform discussed in the Chapter Three.

## **War**

### **Eritrea and Ethiopia**

The initial reason for UN action in the horn of Africa was to end an economically driven<sup>27</sup> border dispute over the Badne triangle that erupted in war in June 1998 between Eritrea and Ethiopia. These former allies could not resolve the issues. The UN initiated mediation in 1998 after futile attempts by both the US and the Organization of African Unity (OAU). As diplomatic talks progressed, both Eritrea and Ethiopia shopped the global arms market. After mediation failed, the UN Security Council resorted to a Chapter VII arms embargo in May 2000. That September, the UN deployed peacekeeping forces to monitor a 25-mile buffer zone created by an OAU-brokered peace plan. This helped to stabilize the situation and promote a tenuous environment in which to settle the dispute. By then, both nations had suffered and caused suffering through killings and ethnically driven mass expulsions during the two-year border

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<sup>27</sup> Lara Santoro, "At the Root of an Odd African War: Money," *The Christian Science Monitor*, 22 June 1998. Internet site: <http://csmweb2.emcweb.com/durable/1998/06/22/p1s2.htm>, accessed 24 March 2003.

war.<sup>28</sup> The official marking of the arbitrated border in May 2003 settled the original dispute but left most persons displaced by the war without citizenship or hope for restitution.<sup>29</sup>

Though war was the reason for invoking Chapter VII, nearly two years passed after the outbreak of hostilities before the UN imposed an arms embargo. The UN sanction did not stop the war and the delay in imposing it had given both nations time to acquire weapons. There was little time to gauge the resolution's effectiveness, if any, since the OAU brokered peace three months later. The arms embargo should have been put in place the moment hostilities started.

## **War / Terrorism**

### **Iraq**

In August 1990, UN sanctions against Iraq were imposed to force Saddam Hussein to withdraw his forces from Kuwait (Resolution 661). These economic sanctions seriously affected the Iraqi economy but not the regime.<sup>30</sup> Since they did not cause Hussein's withdrawal from Kuwait, a second resolution (678) led to an UN-sanctioned, US-led coalition and which forced the Iraqi military from Kuwait. However, the end of this Gulf war did not see an end to sanctions against Iraq. Instead they were linked to another resolution (687) and Iraq's weapons. Subsequent UN resolutions stipulated a variety of terms which included timeline extensions (for blocks of 90 to 180 days), timeline adjustments for periodic reviews subject to completion of progress reports, the varying of exportable amounts of petroleum and petroleum products for the oil for food agreement, travel restrictions for members of the regime, stressing the need for "Iraq compliance"<sup>31</sup> and multiple Goods Review Lists. In 1997 the regime banished US weapons inspectors from Iraq and the UN withdrew the rest in protest. Security Council member

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<sup>28</sup> Human Rights Watch, "Eritrea & Ethiopia: Expulsion Suffering Lingers," 30 January 2003. Internet site: <http://www.globalpolicy.org/security/issues/ethiopia/2003/0204humans.htm> accessed 10 February 2003.

<sup>29</sup> Ibid.

<sup>30</sup> UN Security Council, "Iraq Sanctions: Humanitarian Implications and Options for the Future," 6 December 2002, 40-2. Internet site: <http://www.globalpolicy.org/security/sanction/iraq1/2002/paper.htm>, accessed 1 April 2003.

disagreements hindered coordinated action against Iraq and Saddam Hussein was often perceived to be dictating conditions to the UN.<sup>32</sup>

Ten years after the first UN resolution against Iraq, several UN members had disengaged from the sanctions to make their own standards of cooperation with Iraq. Syria, for example, made “\$1 billion per year from pumping Iraq’s oil to the Mediterranean circumventing the UN oil-for-food program.”<sup>33</sup> Weapons inspectors finally returned to Iraq after five years in the fall of 2002 with the US threatening enforcement, if necessary, to inspect the status of Iraq’s weapons programs. The perceived lack of forthrightness in the process of revealing locations and information on its weapons of mass destruction resulted in a US led invasion of Iraq and the toppling of Saddam Hussein’s regime in March 2003.

The US relied “on its own muscle in the case of Iraq.”<sup>34</sup> Though the UN endorsed the First Gulf War, the US led coalition operated beyond the scope of Chapter VII. After the war, the UN did not enforce member states implementation of sanctions nor did it control Iraq’s compliance with weapons inspections during the interwar years. The second Gulf War in 2003 was linked to the US’s global war on terror and was not conducted under any semblance of Chapter VII. Economic sanctions did not lead to the UN objectives in either situation.

## **Terrorism**

### **Afghanistan**

The UN imposed Chapter VII sanctions on the Taliban in 1999 to elicit the surrender of Osama bin Laden to US authorities. The sanctions included flight bans, freezing of Al Qaeda financial assets, ban on sale / transfer of military equipment (arms, ammunition, and equipment),

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<sup>31</sup> UN Security Council, Security Council Resolution 1284, S/RES/1284(1999).

<sup>32</sup> U.S. Department of State, American Embassy London, President Bush’s Remarks at Naval Station Mayport . Internet site: <http://usembassy.org.uk/bush237.html>, accessed 23 March 2003.

<sup>33</sup> Dore Gold, “Baseless Comparisons: UN Security Council Resolutions on Iraq and Israel,” *Jerusalem Issue Brief* 2, no. 7, (Jerusalem: Jerusalem Center for Public Affairs, Institute for Contemporary Affairs, 2002). Internet site: <http://www.jcpa.org/brief/brief2-7.htm>, accessed 30 March 2003.

closing of Taliban offices in member states and the establishment of sanctions monitoring teams (imposed two years after the original sanctions). For the Taliban, the enforcement of Chapter VII sanctions would have made harboring Osama bin Laden persona non grata and Al Qaeda should have become untenable if not unprofitable. When the Taliban did not comply with UN demands, even after the tightening of sanctions, the enforcement of Chapter VII could have included a UN invasion to capture Osama bin Laden. The terrorist acts of September 11th may have been prevented. Terrorism would not have ended, but the world would have demonstrated a resolve to fight it sooner.

Member states did not fully comply with the sanctions imposed on Afghanistan, nor did the sanctions entirely isolate the Taliban. Efforts were made to ensure the sanctions targeted only the Taliban and they were monitored for their humanitarian impact.<sup>35</sup> The Taliban regime promoted these measures as anti-Islam, which drove the populace to make humanitarian aid workers targets of reprisals. There was no established timeline or force with which the Security Council could proceed to the next level of enforcement under Chapter VII. Instead, the Taliban continued to support the Al Qaeda terrorist organization, which promoted Osama bin Laden's global, reach.<sup>36</sup> The world waited until after the incidents of 11 September 2001 to effectively weaken Al Qaeda's influence.

### **Libya**

Chapter VII resolutions against Libya targeted **Colonel Muammar Qadhafi's** support of terrorism and the harboring of two Libyan intelligence officers linked to the 1988 bombing of Pan Am flight 103 over Lockerbie, Scotland. Resolution 748 (1992) imposed an arms and air

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<sup>34</sup> Whittaker, 90.

<sup>35</sup> Kate Clark, "New UN Sanctions on Taliban," *BBC News*, 19 January 2001. Internet site: [http://news.bbc.co.uk/hi/english/world/south\\_asia/newsid\\_1125000/1125478.stm](http://news.bbc.co.uk/hi/english/world/south_asia/newsid_1125000/1125478.stm), accessed 5 April 2003.

<sup>36</sup> Center for Defense Information, Terrorism Project, "The International Islamic Terrorist Network," 14 September 2001. Internet site: <http://www.cdi.org/terrorism/terroristnetwork.cfm>, accessed 13 March 2003.

embargo,<sup>37</sup> reduced the number of Libyan diplomatic personnel serving abroad, and designated a sanctions committee. Tighter sanctions in 1993 (Resolution 883) added “freezing of Libyan ....financial” assets and banned the sale of oil refining and transportation equipment to Libya.<sup>38</sup>

A combination of diplomacy and sanctions facilitated the relinquishing of the two suspects but only after ten years of impeding the international legal process.<sup>39</sup> UN sanctions were suspended but have not been lifted. Tripoli still needs to “renounce terrorism, accept responsibility for the Lockerbie bombing...and award compensation to the relatives of the (Lockerbie) victims.”<sup>40</sup> Though Britain “resumed diplomatic ties with Libya”<sup>41</sup> in 1999, the US continues to impose its own sanctions along with the UN’s. Eventually, Libya’s need for “oil cash may force Tripoli’s hand.”<sup>42</sup>

## Civil Wars

### Angola

In 1991, UN peacekeepers, under Chapter VI, deployed to Angola to monitor various attempts at peace and unfortunately became nothing more than ineffectual observers as “both sides became virtually immune to UN pressure”<sup>43</sup> Chapter VII sanctions against Angola were also invoked to support a permanent end to three decades of civil war. Initially imposed in 1993, sanctions targeted rebel National Union for the Total Independence of Angola (UNITA) leadership and forces. They included a “ban on arms and fuel supplies, diamond sales (864)” and

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<sup>37</sup> Colum Lynch, “U.S. Threatens to Veto Lifting Libyan Sanctions,” *Washington Post*, 8 July 1999. Internet site: <http://globalpolicy.igc.org/security/sanction/libyalibya16.htm>, accessed 15 April 2003.

<sup>38</sup> UN Security Council, Security Council Resolution 748, S/RES/748(1992).

<sup>39</sup> William Shawcross, *Deliver us from Evil: Peacekeepers, Warlords and a World of Endless Conflict*, (New York: Simon & Schuster, 2000), 344-52. The British government made concessions to facilitate compliance before the tenth anniversary of Lockerbie.

<sup>40</sup> Nicholas Watt, “Allies Tell Libya to Accept UN Demands and End Isolation,” *The Guardian*, 15 March 2002. Internet site:

<http://globalpolicy.igc.org/security/sanction/libya/2002/0315libya.htm>, accessed 16 April 2003.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Human Rights Watch, “Angola Unravels,” Internet site: <http://www.hrw.org/reports/1999/angola/Angl1998-10.htm>, accessed 25 March 2003.

additional sanctions in 1997 added the freezing of bank accounts and “travel of UNITA officials” (Resolution 1127).<sup>44</sup> The sanctions were not effective in stopping a war funded largely through the sale of what came to be known as “blood diamonds.”<sup>45</sup> The result was one of the deadliest conflicts of the 1990s.<sup>46</sup> In 1999 after six years of ineffective sanctions, the UN published the Fowler report<sup>47</sup> on sanctions busting and subsequently tightened the original sanctions in 2000 (Resolution 1295).

It took six years to take a tougher stance in regards to the Chapter VII sanctions and the sale of diamonds and the influx of arms continued. Multiple Chapter VI peacekeeping missions were ineffective at keeping the intermittent attempts at peace and were not mandated to operate as Chapter VII enforcers or peace implementers. The death of UNITA’s leader and the collapse of UNITA as a fighting force finally gave the Angolans the possibility of a peaceful settlement.<sup>48</sup> Sanctions were lifted in December 2002.

### **Liberia**

In 1992, UN Resolution 788 imposed an arms embargo in response to Liberia’s ongoing civil war that started in 1989. It was followed, albeit three years later, by a resolution (985) mandating a sanctions review committee to oversee the resolution’s enforcement. Though by March 2000 the war in Sierra Leone was supposedly over, problems in Liberia were not. The resolutions were terminated in 2001 with Resolution 1343 which also imposed new sanctions. The focus of these sanctions was to end the Liberian government’s support of Sierra Leone rebels (Revolutionary

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<sup>44</sup> Global Policy Forum, UN Integrated Regional Information Networks, “OAU Backs UNITA Sanctions until Peace ‘Irreversible,’” 1 May 2002. Internet site: <http://www.globalpolicy.org/security/sanction/angola/2002/0501sanc.htm>, accessed 22 February 2003.

<sup>45</sup> Victoria Brittain, “UN gets tough with UNITA,” *The Guardian*, 9 July 1999. Internet site: <http://www.guardian.co.uk/international/story/0,3604,293569,00.html>, accessed 15 November 2002.

<sup>46</sup> Shawcross, 299.

<sup>47</sup> Robert R. Fowler, “Final Report of the UN Panel of Experts on Violations of Security Council Sanctions Against UNITA,” 10 March 2000. Internet site: <http://www.globalsecurity.org/security/sanctions/angola/report.htm>, accessed 28 February 2003.

<sup>48</sup> Buchizhya Mseteka, “Angola Moving Towards Peace Talks,” *Reuters*, 25 February 2002. Internet site: <http://www.globalpolicy.org/security/sanction/angola/2002/0225angola.htm>, accessed 13 April 2003.

United Front). The resolution called for expelling RUF leaders from Liberia, closing RUF accounts in Liberian banks and an embargo on the sale of military equipment to Liberia. In May 2001, these expanded to ban diamond sales (guns for diamonds) and travel by Liberian leaders.

Rebels started fighting the government of President Charles Taylor (National Patriotic Party), which felt it could not sufficiently retaliate because of the arms embargo. Liberia argued that it had demonstrated support of UN sanctions by causing the leader of the RUF to leave Liberia. However the UN extended the sanctions for an additional year (until May 2002) as “criminal activities” of President Taylor were purported to continue. Though these were not the original targets of the sanctions, the Chapter VII isolation of Liberia continued.<sup>49</sup>

The UN imposed sanctions against Liberia because President Taylor did not comply with sanctions against Sierra Leone and supported the sale of guns for diamonds. In this case the use of Chapter VII seriously affected the Liberian economy, which caused the Liberians to turn on President Taylor’s government. Though the government has thus far quelled the rioting, the internal conflict linked to the imposition and continuation of sanctions also threatens the fragile peace in Sierra Leone.<sup>50</sup> The UN could very well be called in to impose peace in Liberia because of the government cashing in on the war.

### **Rwanda**

UN intervention in Rwanda started in 1993 with the deployment of UNAMIR forces under Chapter VI to monitor a peace accord between the two principal ethnic groups in Rwanda: the Hutus and predominant Tutsis. The peace did not hold and Resolution 918 (17 May 1994) mandated an arms embargo on Rwanda after genocide, which started in April, had already

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<sup>49</sup> Mark Doyle, “Liberia sanctions ‘unjustified,’” *BBC News*, 25 January 2002. Internet site: <http://news.bbc.uk/hi/world/Africa/1782035.stm>, accessed 15 March 2003.

<sup>50</sup> *BBC News*, “Timeline: Liberia,” 4 March 2003. Internet site: <http://news.bbc.co.uk/1/hi/world/africa/1043567.stm>, accessed 10 March 2003.

resulted in over 500,000 deaths.<sup>51</sup> These included the brutal killing of ten Belgian soldiers with UNAMIR. Instead of changing their Rules of Engagement to enable a Chapter VII stance, a Resolution was drawn up in April to downsize the number of UN forces. In May, the UN passed a resolution to restore UNAMIR forces but they were not due to arrive until August. In June, France proposed and deployed 2,500 troops as an interim peacekeeping force (the resolution narrowly passed in the Security Council). The French had an interest in this former colony and expeditiously acted to establish a safe zone, which was used by the Hutus.<sup>52</sup> This left some to conclude another permanent member of the Security Council was acting in its own interest.

Meanwhile, a global debate ensued on whether genocide was occurring in Rwanda. An arms embargo effective when the weapon of choice is a machete. The UN sanction did not prevent an estimated 800,000 killed in 100 days. Simply stated, Chapter VII and the members of the UN failed the Rwandans. An adequate force could have quelled the genocide that was not an unforeseen uprising but a pre-planned gambit for a group of ousted Hutus to stay in power. The Hutus returned from the refugee camps. But the killings continue, only on a relatively smaller scale.<sup>53</sup> The UN was founded with the promise, there would never be another Germany (genocide) and yet Rwanda. All the world was left to do was apologize.<sup>54</sup> The US apologized for not acting which implied the US will act, unilaterally if necessary, to prevent genocide on this scale in the future. UN sanctions were not only ineffective but also resulted in significant loss of international credibility.

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<sup>51</sup> International Red Cross estimates 500,000 Rwandans have been killed by mid May. *PBS Frontline*, “The Triumph of Evil: 100 Days of Slaughter,” Internet site: <http://www.pbs.org/wgbh/pages/frontline/shows/eveil/etc/slaughter/html>, accessed on 15 March 2003.

<sup>52</sup> Benjamin Sehene, “Rwanda’s Collective Amnesia,” *UNESCO Courier*, 1999. Internet site: [http://www.unesco.org/courier/1999\\_12/uk/dossier/intro08.htm](http://www.unesco.org/courier/1999_12/uk/dossier/intro08.htm), accessed 15 April 2003.

<sup>53</sup> Philip Gourevitch, *We Wish To Inform You That Tomorrow We Will Be Killed With Our Families: Stories from Rwanda*, (New York: Picador USA, 1998), 343-7.

<sup>54</sup> Ibid., 350-1.

## **Sierra Leone**

In 1991, Foday Sankoh and his Revolutionary United Front (RUF) launched a “vicious insurgency to control the government and diamond fields”<sup>55</sup> of Sierra Leone. Sankoh incited fear by cutting off the hands and legs of his victims. In 1996, the Sierra Leoneans rebelled and fought to have democratic elections, however, a military coup seized power in 1997. The UN imposed Chapter VII sanctions, which were reinforced by an economic embargo by the Economic Community of West African States (ECOWAS) (enforced by ECOMOG Military Observer Group of ECOWAS). They targeted Johnny Paul Koromas’ military junta, his forces and RUF rebels. The ECOMOG force drove the junta and RUF forces from Freetown and reinstated President Kabbah in 1998. The UN Security Council established the Mission in Sierra Leone (UNAMSIL) in October 1999 to help implement the Lomé Agreement signed by the warring parties. Amongst the Lomé Agreements failings was the UN’s deal with the President of Sierra Leone; forgive the rebels inhumane acts. A travesty of justice to many, the agreement did not stand.

UNAMSIL exemplified a change in UN peacekeeping with its authorization “to use force to protect civilians where resources and circumstances allowed.”<sup>56</sup> Fighting continued and the low point in the peacekeeping mission occurred when the RUF took 500 UN peacekeepers hostage in May 2000. The UK responded with the deployment of 1,000 Marines (not under UN control) and prevented the rebels from seizing Freetown.<sup>57</sup> President Kabbah won elections in May 2002 and in March 2003 both Sankoh and Koroma were among the first to be indicted by Sierra Leone’s war crimes tribunal. However, the tenuous peace is still threatened by RUF incursions and

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<sup>55</sup> *Associated Press*, “Tribunal Indicts Sierra Leone Rebel Leader,” 10 March 2003. Internet site: <http://globalpolicy.igc.org/security/issues/liberia/2003/0310in.htm>, accessed 11 March 2003.

<sup>56</sup> David M. Malone and Karin Wermester, “Boom or Bust? The Changing Nature of UN Peacekeeping,” *Managing Armed Conflicts in the 21<sup>st</sup> Century*, Adekeye Adebajo and Chandra Lekha Sriram, eds., (London: Frank Cass & Co., Ltd., 2001), 44. Malone and Wermester discuss UN Security Council Resolution 1270 (2000).

<sup>57</sup> The UK was criticized for not deploying under the auspices of the UN. *BBC News*, “Britain’s Role in Sierra Leone,” 10 September 2000. Internet site: <http://news.bbc.co.uk/1/hi/uk/91060.stm>.

refugees from Liberia.<sup>58</sup> UNAMSIL continues its “efforts to disarm, demobilize, and reintegrate the RUF.”<sup>59</sup>

The effectiveness of the sanctions imposed against Sierra Leone was questionable. They did not prevent the sale of “blood diamonds.” By controlling the diamond rich fields of southern Sierra Leone, the rebels could acquire arms from countries willing to defy the UN sanctions to include Liberia (see above).

Sanctions were just one of the UN actions in Sierra Leone. This was another case of Chapter VII sanctions and Chapter VI forces deploying to uphold a tenuous peace. The limited peacekeeping force could not enforce and disable the rebels effectively. The West African ECOMOG was more effective than UN forces.

### **Somalia**

Factional fighting and inter-clan rivalries resulted in a civil war in Somalia in 1991. Mogadishu, alone, saw 20,000 killed in November 1991 and the crisis resulted in thousands of refugees fleeing to Kenya. The OAU Secretary General and the “notional” Somali President<sup>60</sup> approached the Security Council in December 1991 and the UN imposed an arms embargo on Somalia on 31 January 1992 calling for a cease fire and end to all hostilities by the parties involved.<sup>61</sup> Instead, the UN team, which deployed to monitor the humanitarian crisis, found ‘evidence of continuing arms trade’ and the humanitarian crisis exploded. Though the Chapter VI mandated UNOSOM was in Somalia, it did not have an enforcement mandate to facilitate the delivery of aid. Another Chapter VII resolution authorized the deployment of US forces to ensure the delivery of humanitarian aid. However, “military enforcement...to ensure the delivery of humanitarian aid” was subsequently tied to “the restoration of peace, stability and law and

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<sup>58</sup>Associated Press, “Tribunal Indicts Sierra Leone Rebel Leader,” 10 March 2003. Internet site: <http://globalpolicy.igc.org/security/issues/liberia/2003/0310in.htm>, accessed 29 April 2003.

<sup>59</sup>Reuters, “Country Profile: Sierra Leone,” 10 May 2003. Internet site <http://www.alertnet.org/thefacts/countryprofiles/220096.htm>, accessed 10 May 2003.

<sup>60</sup>Anthony Parsons, *From Cold War to Hot Peace: UN Interventions 1947-1995*, (London: Penguin Books, 1995), 201.

order”<sup>62</sup> which transitioned to UNOSOM 2. The addition of an unresourced task resulted in failure and the UN withdrew its forces by the end of 1994.

The Chapter VII arms embargo did nothing to stabilize the situation. Arms embargos are ineffective in countries “awash with weapons”<sup>63</sup> Ten years after the initial resolution, the Security Council issued another resolution (2002) and attempted to assess why the embargo did not work.<sup>64</sup> The Chapter VII attempt at restoring peace and security had failed and the ineffective arms embargo was still in place.

### **South Africa**

Though, the General Assembly viewed human rights violations, as a threat to peace the Security Council was not willing to use apartheid as justification for Chapter VII.<sup>65</sup> After many years of debate the Security Council assessed apartheid as one of the “causes of the conflict” in South Africa and an arms embargo was imposed on South Africa in 1977.<sup>66</sup> This prompted South Africa to become one of the top ten weapons exporters in the world. The arms embargo was in place until 1994.

### **The former Yugoslavia**

A series of Chapter VII resolutions were invoked to end the conflict over Bosnia in the former Yugoslavia. Chapter VII sanctions began with an arms embargo in 1991 on all of the former Yugoslavia. This was just the first in a series of Chapter VII resolutions, which imposed comprehensive economic sanctions and restricted travel. The UN also demanded an end to the fighting and ethnic population reconfiguration, authorized the use of force to ensure delivery of humanitarian supplies, authorized the defense of ‘safe areas’ (to include Sarajevo) by force,

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<sup>61</sup>UN Security Council, Security Council Resolution 733, S/RES/733(1992).

<sup>62</sup> Parsons, 203.

<sup>63</sup> Parsons, 201.

<sup>64</sup>UN Security Council, Security Council Resolution 1407, S/RES/1407(2002).

<sup>65</sup> Rüdiger Wolfrum, “The UN Experience in Modern Intervention,” *International Intervention: Sovereignty versus Responsibility*, Michael Keren and Donald A. Sylvan, eds., (London: Frank Cass & Co. Ltd., 2002), 100-1.

<sup>66</sup>UN Security Council, Security Council Resolution 418, S/RES/418(1977).

imposed a no fly zone, and established an international tribunal to try violators of international humanitarian law.<sup>67</sup> But in all cases there was a reluctance to enforce the more stringent rhetoric while the UN arms embargo prevented Bosnia from the UN Charter right under Article 51 to defend itself. Though Chapter VI initiatives were invoked to enable the delivery of humanitarian aid the stronger mandates were not supported with the resources to make them effective. To end the crisis a North Atlantic Treaty Organization (NATO) force at the behest of the UN deployed into Bosnia to implement peace. This saw an overlap of the changing of blue berets for helmets as some UNPROFOR Chapter VI forces transitioned to IFOR. The potential to shift to Chapter VII was available to the UN, but the UN did not implement or resource this solution.

Yugoslavia provides an example of failed preventive action. Economic sanctions and diplomatic initiatives were the two instruments of prevention used in the case of Yugoslavia. The UN sanctions followed sanctions imposed by the EC and US unilaterally in May and September of 1991 respectively.<sup>68</sup> One study states the sanctions were “remarkably effective”<sup>69</sup> for “they modified the behavior of the Serbian party to the conflict and may well have been the single most important reason for the Government in Belgrade changing its policies” and agreeing to the Dayton Peace accord. The majority consensus was they “did not produce the desired political effect.”<sup>70</sup> The only time Serbia was restrained was when NATO actively enforced the Chapter VII sanctions.<sup>71</sup>

After the implementation of the Dayton Peace Accord, the sanctions were lifted. However, in 1998 sanctions were again imposed on Yugoslavia as a result of the crisis caused by the breakaway province of Kosovo. A resolution prohibiting the sale or supply of arms to the Federal

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<sup>67</sup>UN Security Council, Security Council Resolutions 713 (1991), 724 (1991), 757(1992), 942(1994), 943(1994).

<sup>68</sup> Raimo Vayrynen, “Preventive Action: Failures in Yugoslavia,” *The UN Peace and Force*, Michael Pugh, ed., (London: Frank Cass and Company Limited, 1997), 21-39.

<sup>69</sup> Copenhagen Round Table, “Report of the Copenhagen Round Table on United Nations Sanctions in the Case of the Former Yugoslavia,” OSCE, 24-25 June 1996. Internet site: <http://www.globalpolicy.org/security/sanction/sanct96.htm>, accessed 25 November 2002.

<sup>70</sup>Vayrynen, 31.

Republic of Yugoslavia, including Kosovo, was imposed in response to violence against ethnic Albanians in Kosovo.<sup>72</sup> The UN determined the arms ban was unenforceable because the size of the monitoring force required far exceeded what members were willing to deploy. The violence in Kosovo continued until NATO airstrikes, not sanctioned under Chapter VII, brought an end to Serbian aggression. All sanctions against Yugoslavia were lifted in 2001.

## **Coups**

### **Haiti**

The 1990 coup, which ousted elected President Jean Bertrand Aristide, prompted the 1993 resolution (841), which imposed arms and oil embargos, froze assets and designated a sanctions committee. Though it took three years, the initial UN sanctions were sufficient to bring General Raoul Cedras to the negotiating table. However, what came to be known as the Mogadishu Line largely influenced the development of this situation. UN troops (a US and Canadian contingent) were deployed to Haiti in October 1993, to monitor the transition from Cedras to Aristide. A group of sign waving thugs with slogans that included “We are going to turn this into another Somalia” caused President Clinton to turn the ship carrying the troops around.<sup>73</sup> The initial agreement failed, and UN sanctions were “expanded to include all commodities with the exception of medical supplies and foodstuffs (917),”<sup>74</sup> but political killings continued and only the deployment of forces in 1995 restored President Aristide.

### **Southern Rhodesia**

The reason for the Chapter VII sanction on Southern Rhodesia was the unilateral declaration of independence (UDI) by the Ian Smith regime in 1965. Britain requested a UN resolution

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<sup>71</sup>Parsons, 241.

<sup>72</sup>UN Security Council, Security Council Resolution 1160, S/REL/1160(1998).

<sup>73</sup> Shawcross, 123.

<sup>74</sup> UN Secretariat, Office of the Spokesman for the Secretary-General, “Use of Sanctions Under Chapter VII of the UN Charter,” January 2002. Internet site: <http://www.un.org/News/ossg/haiti.htm>, accessed 15 March 2003.

because Britain did not want to handle it themselves.<sup>75</sup> Britain had balked two years earlier at the UN's attempts to address the discriminatory legislation and attempts to maintain all white rule in Rhodesia, protesting the UN's involvement in internal affairs. This was a "rebellion against British authority by British people in a British territory."<sup>76</sup> By 1965, the British were stuck between a rock and a hard place. Either use military action against former members of the British armed forces or accept the apartheid establishment and face most of the world's abhorrence. Britain used its Security Council position to push Chapter VII sanctions when there was no justifiable threat to international peace and security. The UN imposed an embargo on arms and other commodities. The sanctions were subsequently tightened but their effects were negligible because rampant sanctions busting by member nations resulted in an increase in Rhodesia's GDP. This situation lasted for fourteen years until the eventual downfall of the all white Rhodesian regime. In this case, the UN became nothing more than a forum for discussion of an issue it was not really prepared to resolve.<sup>77</sup>

## **Harboring Criminals**

### **Sudan**

Chapter VII sanctions were imposed in 1996 because the Sudan would not relinquish three suspects in an assassination attempt on Egyptian President Hosni Mubarek. UN sanctions resulted in member nations limiting the number of Sudanese diplomatic personnel and travel through or to their countries. Another resolution three months later denied Sudanese aircraft over flight and landing rights. This resolution, however, was never imposed because most member nations did not enforce it. When it came time to lift the sanctions, the US abstained from the voting. The other voting members, to include Egypt, voted to lift the sanctions. The use of

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<sup>75</sup>Parsons, 122-5.

<sup>76</sup>Ibid., 123.

<sup>77</sup>Ibid.

Chapter VII in this case can be viewed as wasteful. For all the effort no member demonstrated resolve to enforce this sanction except for perhaps the US.

## **Conclusions from Case Studies**

The review of the fourteen cases where the UN invoked Chapter VII sanctions reveals many common threads. They highlight similarities and unique differences. They are also the basis for the positive and negative perceptions of the UN.

One unavoidable conclusion is Chapter VII is not imposed every time there is a threat to peace and security. There are no established criteria whereby the Security Council automatically imposes Chapter VII. In the past fifty years only fourteen cases merited Chapter VII sanctions. In many other cases of global crises, UN sanctions were not imposed. If the UN is the world's policing leader, the parallel of a police force picking and choosing the crimes it pursues without a force with which to enforce the law is ludicrous. The Security Council did not address numerous situations that merited Chapter VII sanctions. The primary reason used is the Cold War, which created an ideology rift in the Security Council. The UN was the extended battlefield for two major superpowers and their camps. In addition, grievances were often raised, some quite trite, for the sole reason of embarrassing a member nation. Other nations refrained altogether from making their crises issues for the Security Council.<sup>78</sup>

At times, no consensus within the Security Council to impose Chapter VII could be reached. In other instances, the UN waited for public demands to act as in the case of Somalia and Yugoslavia. The media-influenced popular support forced the UN to augment their Chapter VII sanctions with humanitarian aid. However, without established criteria to impose sanctions every time a case merits action, there is little likelihood of consistent enforcement or influence. Even if sanctions were automatic, these guaranteed sanctions would simply increase the burden on the UN to enforce these measures without the organic means or will to do so.

The case studies showed that in many instances Security Council members view potential cases through the lens of their own national rather than global interests. One can argue, for example, that Britain promoted its own agenda in Southern Rhodesia, its former colony. Though Britain initially insisted Rhodesia was an internal affair, when the issue became political on the home front, Britain requested UN intervention.

Other Chapter VII measures are perceived as twentieth century colonialism.<sup>79</sup> Though France requested Security Council authorization enroute to Rwanda in 1995, it only became the UN's defacto force on the ground because of French national interests.<sup>80</sup> Similarly, Chapter VII resolutions in Iraq are viewed by some to exist only to legitimize US military actions. The US invaded Iraq twice, sanctioned by the UN the first time, but not the second. In Libya, UN sanctions were imposed to force the extradition of two suspects wanted by the US but the UN allowed Libya's open support of rebel factions in Liberia and Sierra Leone.

Another conclusion drawn after the study of Chapter VII sanctions is that "threat to peace and security" has expanded in meaning over time.<sup>81</sup> As it was originally written, Chapter VII does not capture "Wars of Choice / Wars of conscience,"<sup>82</sup> or the "stated right to intervene in a state's internal affairs on moral or human grounds."<sup>83</sup> And yet this broader interpretation of Chapter VII specifically for humanitarian reasons, were the basis for most of the Chapter VII interventions in the 1990's.<sup>84</sup> The media and civilian opinion largely influenced UN actions in Yugoslavia and Somalia, causing an expansion of the original mission in both cases. However, other humanitarian crisis in the 1990's did not result in Chapter VII sanctions or mandates to intervene. Media was often the key to this expanded definition.

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<sup>78</sup>Abraham Yeselson and Anthony Gaglione, *A Dangerous Place: The United Nations as a Weapon in World Politics*, (New York: Grossman Publishers, 1974), 50-5.

<sup>79</sup> Parsons, 123-4.

<sup>80</sup> Christopher Bellamy, *Knights in White Armour: The New Art of War and Peace*, (London: Hutchinson, 1996), 101.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid., 30.

<sup>83</sup> Ibid., 25.

<sup>84</sup> Wolfrum, 95-96.

Another conclusion is Chapter VII is applied there is no guarantee or standard of equitable and effective enforcement nor level of consistency in assessing and directing assets. Sanctions are in essence a form of modern “siege warfare”<sup>85</sup> which only works when there are men outside the city walls or when there is resolution oversight. Though most UN resolutions call for a sanctions committee to oversee implementation, there is no standard of evaluation, monitoring tools, or endstate. It is all up to the individual sanctions committee. In Liberia’s case it took three years after the initial UN resolution was imposed before a sanctions committee was designated. Angola’s sanctions committee eventually produced the Fowler Report, which resulted in a stronger UN stance, but only after six years from when the first resolution was published.

In addition, with no standard of action, disparate time lags exist between crisis and resolution publication, implementation, and interim assessments to improve and or change the focus to achieve resolution aims. The UN waited two years before acting to stop the fighting in Eritrea and Ethiopia. Though the UN promotes a reliance on regional organizations through the use of Chapter VII of the Charter, this gave the disputants time to stockpile military equipment. While the US and OAU were promoting a diplomatic solution a UN arms embargo could have been imposed. The subsequent versus mutually supportive effort was not as effective.<sup>86</sup> In Haiti’s case it took three years to impose sanctions after a coup ousted a democratically elected president. And finally, the crisis in Rwanda was well under way before the first UN troops mandated to stop the killings deployed.

Chapter VII does not automatically operate as a series of timely sequential steps with a credible threat of military enforcement. There is no standard of conviction to follow through with Chapter VII. Thus, Libya impeded justice for 15 years, Afghanistan did not turn over Osama bin

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<sup>85</sup> Gordon, Joy, “Sanctions as Siege Warfare,” *The Nation*, 22 March 1999. Internet site: <http://www.thirdworldtraveler.com/Terrorism/SanctionsSiegeWarfare.html>, accessed 12 April 2003.

<sup>86</sup> Nigel D. White, “The UN Charter and Peacekeeping Forces: Constitutional Issues,” *The UN Peace and Force*, Michael Pugh, ed., (London: Frank Cass and Company Limited, 1997), 56.

Laden, and the civil war in Angola dragged on. This time lag in resolution enforcement begs the question: How long does one wait before actually doing something? The UN response to Yugoslavia could be equated to parents admonishing their children to stop fighting. Everyone with children knows threats without the potential for some form of punishment are usually ineffective. Of course, for the UN “or else” usually comes in the form of more economic sanctions (as in Angola).

UN Chapter VI and Chapter VII are not mutually supportive.<sup>87</sup> In the cases where peacekeepers are deployed to countries undergoing Chapter VII sanctions, they are not able to enforce the peace and the sanctions. Peacekeepers are usually sent to monitor a peace agreement tenuously agreed to by all sides. Usually they are not outfitted sufficiently to accomplish their Chapter VI mission, let alone monitor or enforce a Chapter VII sanction or intervention. This in many respects, to include Rwanda, demonstrates a missed opportunity.

Resolutions do not always appear to have the benefit of a thorough analysis or an articulated endstate. Some are imposed piecemeal. Past UN experience with sanctions is not built on to incorporate second and third order effects in determining the gamut of sanctions to impose. For example, there is first an arms embargo, and then later the means to fund the arms, i.e. blood diamonds is added. In the case of Liberia, sanctions busters adapted to more stringent enforcement of the initial UN resolution. Thereby, the UN had to add timber and shipping to the sanctions list.<sup>88</sup> The assessment of the Yugoslavian situation did not initially produce an all inclusive target list. The first resolution targeted one party. Realizing there was a loophole, the Security Council had to impose sanctions on the rest to include the country being assailed, thus limiting its ability for self-defense. Though not all the players in a crisis are always immediately apparent it is critical to attempt to direct sanctions simultaneously at all the culprits. There are also times when the focus of Chapter VII sanctions is shifted without revisiting the original

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<sup>87</sup> Ibid., 52.

reasons for the sanctions. This occurred in post Gulf War Iraq with the linking of weapons to the original resolutions. There was no endstate or timeline in Iraq either. This leaves one to question the logic behind proceeding with resolutions that take ten years (Libya) or the death of the target (Angola) to achieve a semblance of success.

Chapter VII sanctions often miss the intended target. Many sanctions are purported to cause great harm and “do not work.”<sup>89</sup> Often, sanctions cause collateral damage and the target of the sanction is missed entirely. In Iraq, the decade-long UN imposed sanctions have been blamed for over 400,000 deaths.<sup>90</sup> Little has been done to ensure sanctions produce the result(s) they were invoked for in the first place. Sanctions were monitored for their humanitarian impact in Afghanistan and there are initiatives for precise sanctions and sanction time limits.<sup>91</sup> Many of the cited Chapter VII cases resulted in a do-loop where the sanctions were not working but the UN kept extending them because there was nothing else the Security Council could agree to do.

Sanctions did not contribute in either instance to pressuring the parties to negotiate a peaceful settlement or constraining the military capabilities of the rebel movements against which they were targeted. Liberia, Rwanda, and Somalia are examples of ineffective arms embargoes applied against failed states in circumstances of war, genocide, and famine. They reflect the crisis of violence and human rights abuse that has plagued sub-Saharan Africa, as addressed in Secretary General Kofi Annan's report on Africa. They also illustrate the inability of the Security Council or any other international body to provide meaningful solutions.<sup>92</sup>

It is easy to derail sanctions. In the case of Haiti, the UN was willing and able to authorize military strength. With US and Canadian forces enroute, the threat of the Mogadishu line caused

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<sup>88</sup> BBC News, “UN renews Liberia Sanctions,” 7 May 2002. Internet site: <http://news.bbc.co.uk/hi/world/africa/1972250.stm>, accessed 12 March 2003.

<sup>89</sup> Albrecht Schnabel and Ramesh Thakur, “Policy Brief: Lessons from the Kosovo Conflict,” Schnabel, Albrecht and Ramesh Thakur, eds., *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Intervention, and International Citizenship*. (Tokyo: United Nations University Press, 2000). Internet site: [http://www.unu.edu/p&g/kosovo\\_full.htm#1](http://www.unu.edu/p&g/kosovo_full.htm#1), accessed 15 February 2003.

<sup>90</sup> UN Security Council, “Iraq Sanctions: Humanitarian Implications and Options for the Future,” 6 December 2002. Internet site: <http://www.globalpolicy.org/security/sanction/iraq1/2002/paper.htm>, accessed 1 April 2003.

<sup>91</sup> Ibid.

<sup>92</sup> George A. Lopez, David Cortright, and Julia Wagler, “The Sanctions Decade: Assessing the UN Experience of the 1990s,” *Columbia International Affairs Online*. Paper presented before the

President Clinton to recall them in reaction to a relatively minor threat. This questions the strength and resolve of the UN.<sup>93</sup> Instead of applying lessons learned in Somalia to operations in Haiti and Rwanda, they hindered and prevented action.

Iraq (after the first Gulf War) saw the continuous deferral of action because of member disagreement. The Security Council was unable to get through the impasse and enforce resolutions. After the weapons inspectors' banishment, President Clinton responded by pledging to deal "in a very determined way." The US ambassador to the United Nations, Bill Richardson, called Iraq's order "unacceptable" and said there would be "grave consequences."<sup>94</sup> Instead, "sanctions fatigue" turned "into sanctions defeatism".<sup>95</sup> Members demonstrated an unwillingness to influence Iraq through anything but the use of economic sanctions. They did not set a time limit to resolve the issue. The members' reluctance to finalize their discord and come to resolution is another weakness of Chapter VII. Indecisiveness eventually lead to apathy as the united front, which imposed the sanction, broke apart with members following their own agendas or calling for revocation.

Not all members follow each Chapter VII mandate as they are obligated to do under Article 25 of the UN Charter: "The Members of the UN agree to accept and carry out the decisions of the Security Council in accordance with the present Charter."<sup>96</sup> Many work around Chapter VII mandates. At other times members go above and beyond UN mandates with their own unilateral sanctions. The US unilaterally continued sanctions a year after the UN sanctions ended in the case of Sudan. The issue is not only how to deal with those that reject or work against Chapter

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International Studies Association, 41st Annual Convention, (Los Angeles, Calif.: March 14-18, 2000). Internet site: <http://www.ciaonet.org/isa/log01/>, accessed 22 March 2003.

<sup>93</sup> Parsons, 211.

<sup>94</sup> CNN, "Iraq Kicks Expels American Weapons Inspectors," 13 November 1997. Internet site: <http://www.cnn.com?WORLD/9711/13/iraq.expel/>, accessed 12 February 2003.

<sup>95</sup> Meghan O'Sullivan, "Iraq: Time for a Modified Approach," Brookings Institute Policy Brief no. 71, 2001. Internet site: <http://www.brookings.org/dybdocroot/comm/policybriefs/pb071/pb71.htm>, accessed 30 March 2003.

<sup>96</sup> UN Charter, Article 25.

VII resolutions, but what to do about nations that impose a broader-scoped, longer-lasting sanctions than mandated by the UN.

Sanctions are viewed as a basis of policy for many nations in their dealings with each other.<sup>97</sup> In the case of national and regional coalition sanctions, they are debated and reviewed as dictated by the governing body. But until they are officially changed, sanctions are enforced. Of course the question of whether or not sanctions are effective is also assessed. Take for example US and the sanctions on Cuba. For the US the bottleneck is once a sanction is passed all, even those that do not agree, enforces the sanction.

The system upon which the US's sanctions are imposed is based on the constitution. The system which allows for unresolved and extended "disputes over oil pricing"<sup>98</sup> to determine allocations to the oil for food program (in the case of Iraq) and is based on the UN Charter. The UN in many cases is incapable of imposing successful Chapter VII sanctions, which meet the objective of "the relief of suffering in - and the democratization of - the targeted society."<sup>99</sup>

Finally, most of the Chapter VII sanctions found cases of commitments not being "in line with capabilities." This led to the perception "we will only further undermine UN credibility and support." Madeleine Albright testified at a Capitol Hill hearing on tensions in US-U.N. relations and discussed the Security Council's resolution (Rwanda):

The United States has been a driving force in the provision of humanitarian assistance, in condemning the violence and in trying to organize a U.N. mission designed not simply to promise, but to deliver what it promises. Sending a U.N. force into the maelstrom in Rwanda without a sound plan of operations would be folly ... The resolution adopted last night requires the Secretary-General to report back before the next phase of deployment begins ... these choices are not easy ones. Emotions can produce wonderful speeches and stirring op-ed pieces. But emotions alone cannot produce policies that will achieve what they promise. If we do not keep commitments in line with capabilities, we will only further

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<sup>97</sup> O'Sullivan.

<sup>98</sup> *Global Policy Forum*. "Oil Pricing Disputes and Shrinking Humanitarian Revenue," 6 August 2002 Internet site:  
<http://www.globalpolicy.org/security/sanction/iraq1/oilforfood/20020806price.htm>, accessed 3 March 2003.

<sup>99</sup> Schnabel and Thakur.

undermine U.N. credibility and support. The actions authorized last night will help. They may save lives. But ultimately, the future of Rwanda is in Rwandan hands.<sup>100</sup>

Additional recommendations to improve the UN sanctions process include the need for armed forces. The Fowler Report included recommendations to improve Chapter VII sanction monitoring and enforcement, such as intelligence gathering and monitoring capability (AWACS). But as with armed forces, the UN would be left to the mercy of the member nations for donations of monitoring equipment.

These fourteen cases reveal into the potential threats that are part of the new millennium strategic setting. These threats have a bearing on potential Chapter VII reform. The UN's lack of ability to fully enforce sanctions under Chapter VII results in the perception of the UN as weak or inept, and if not entirely toothless, limited in its ability to prevent threats to security. Perceptions dominate the media and may eventually influence decisions made at the UN. Perception-driven decisions are not always decisive nor do they tend to resolve the issues that drove them in the first place. Though perceptions are not the driving factor for reform, they should be considered especially since Chapter VII's effectiveness tests the relevancy of the UN. There is a need to determine why the UN operates in a way that promises more than it can deliver.

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<sup>100</sup> Testimony by Secretary of State Madeleine Albright before the Congress on 17 May 1994. *PBS Frontline*, "The Triumph of Evil: 100 Days of Slaughter," 1999. Internet site: <http://www.pbs.org/wgbh/pages/frontline/shows/evil/etc/slaughter.html>, accessed 15 March 2003.

## CHAPTER THREE

# CHAPTER VII REFORM

### Chapter VII Views – Topic of much debate

The United Nations withstood many challenges in its first sixty years. During this time various thoughts on Charter change and Chapter VII revision continued to evolve. *Eroding the UN Charter* by Yahuda Blum analysis of the application of the Charter's articles provides evidence that the UN (Charter) is weakening over time. Many of the Charter's words "have no more effect than if they had never been written into that instrument; other passages carry a different meaning in practice from that which the plain meaning of the words convey."<sup>101</sup> The examination of Chapter VII and the effectiveness of its articles in the fourteen cases of Chapter VII sanctions leads to the recognition of a need for change.

Reform, does not come easy to the United Nations. In the world of diplomacy there is little impetus for change. And yet, in the name of peace and security, organizational adaptation is especially critical. If the UN wants to co-exist as a credible partner on the world stage, it has to demonstrate a willingness to change. The UN has demonstrated reform is in the realm of possibility in the case of Chapter VI. Reform began with scathing self-assessments<sup>102</sup> and the development of new organizations to include the SHIRBRIG (Stand-by High Readiness Brigade).<sup>103</sup>

There are various views on Chapter VII that address reasons for its shortcomings and recommend courses of action for the future. One view is Chapter VII has changed informally by

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<sup>101</sup>A. Martin and J.B.S. Edwards, *The Changing Charter*, 1955 in *Eroding the United Nations Charter*, Yehuda Z. Blum, (Boston: Martinus Nijhoff Publishers, 1993), 239.

<sup>102</sup>UN Security Council, "Report of the Panel on United Nations Peace Operations," a.k.a. the "Brahimi Report" A/55/305 - S/2000/809. Internet site:

[http://www.un.org/peace/reports/peace\\_operations/](http://www.un.org/peace/reports/peace_operations/), accessed 8 September 2002.

<sup>103</sup>For more information on the organization, training and missions of the SHIRBRIG, see internet site: <http://www.shirbrig.dk/>, accessed 20 September 2002.

adapting to the real world. Others argue Chapter VII needs to be enabled in accordance with Article 43 with recommendations for how this UN military force should organize and function. Lastly, another view assesses the historic usage and success and promotes the UN adjustment of its attitude from stubborn persistence (to try to make it work) to scoping down the UN's role and missions under Chapter VII.

### **Chapter VII Views and possible courses of action**

The analysis of the feasibility, acceptability and supportability (FAS Test<sup>104</sup>) of these possible courses of action for Chapter VII assists in determining a solution that the UN should adopt for the future. The strength of this “revised” Chapter could determine the future of the United Nations. The definitions for the FAS in the case of Chapter VII reform are as follows. Feasibility, the proposal has “a reasonable chance of success.” Acceptability, “the costs justify the means or ....analysis demonstrates that it is advantageous to the organization.” Suitability (Adequacy) the proposal will “contribute to or accomplish the desired … effect”<sup>105</sup>

First View. This proposal states leave Chapter VII as is and accepts the level of Chapter VII real world usage. This view realizes Chapter VII is continuously molded by the political environment and presumes an understanding of what can and cannot really occur under Chapter VII. The results are informal charter changes through partial and non-implementation /or application of its articles. In effect, the Charter has undergone numerous de facto revisions.<sup>106</sup> These non-default changes have, however, negatively affected the perception of the UN because of the disparity in what the words say and the actions they can accomplish.

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<sup>104</sup>FAS is a method of analysis for strategy. See *Department of Joint Military Operations Readings Book*, “Evaluating National Security Strategy and National Military Strategy,” Department of Joint Military Operations, U.S. Army Command and General Staff College. (Ft. Leavenworth, Kansas: DJMO, 2002), 1.

<sup>105</sup>Ibid., 3.

<sup>106</sup> Blum, 239-241.

Some believe the UN is also instrumental and effective in implementing sanctions.<sup>107</sup> They view sanctions as important tools especially for their “symbolic functions” that are “used as a form of communication of international values.”<sup>108</sup> This view “would argue the expanded usage of sanctions under Chapter VII could mean the UN is waking up to the potential of Chapter VII.”<sup>109</sup> And yet the fourteen examples of Chapter VII sanctions in the last chapter are not demonstrative of this valuable potential.

For those who recommend leaving Chapter VII as it stands, there is also a level of resignation that no matter how “desirable” the establishment of “UN structures relating to the conduct of military action” the “global collective security system seems likely... to remain essentially ad hoc.”<sup>110</sup> Even without these armed forces the UN has developed “methods for responding to many situations of international and internal conflict.”<sup>111</sup> Though, there are benefits to the by default contracting “arrangement whereby forces are authorized by the Security Council but remain national in command.” Militaries with their organic intelligence gathering apparatuses and operations sections outmatch the UN, which is lacking in both. This view also accepts the diplomatic reality that nations have varying degrees of interest in and commitment to specific issues. Lastly, when a military operation fails the onus is not on the UN.

Another possibility is that the greater turning to the UN for crisis resolution since the end of the Cold War implies the UN is gaining strength as a world leader. Since the UN was driven to peacekeeping in the past because there was no possibility of Chapter VII collective security, the evolution of a Chapter 6 ½ is possible.<sup>112</sup> This highlights the informal adaptation of the Charter

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<sup>107</sup> Halperin.

<sup>108</sup> Roberts and Kingsbury, 33.

<sup>109</sup> Malone and Wermester, 44.

<sup>110</sup> Peter Wilenski “The Structure of the UN in the Post-Cold War Period,” *United Nations: A World Divided*, Adam Roberts and Benedict Kingsbury, eds., (Oxford: Clarendon Press, 1993), 445.

<sup>111</sup> Roberts and Kingsbury, 31.

<sup>112</sup> Roger A. Coate, ed., *U.S. Policy and the Future of the United Nations*, (New York: The Twentieth Century Fund Press, 1994), 32.

to create peacekeeping and recommends a linkage of Article 43 to “peacekeeping preparedness.”<sup>113</sup>

For those that accept this informal adaptation of Chapter VII there is no need to reform the means of Chapter VII application. However, there are two options for capturing the current *modus operandi*. One is to amend Chapter VII to formalize the real world usage and feasibility of enforcement.<sup>114</sup> The other is to accept continuous “by default” revisions to the Charter and leave the Charter as it is written. Not changing Chapter VII’s verbiage also leaves the door open for those that hope it will someday be enabled. The difference between these two options based on Chapter VII’s historical usage, is the first would delete articles and aspects that have never been used. However, though the notion that charter revision is possible exists, the extent to which the reluctance to touch the Charter fades is still to be seen. Formally amending or deleting the Articles would, at a minimum remove the perception of false promotion of capabilities that Chapter VII currently invokes.

The UN has demonstrated it can impose sanctions and contract for military forces to enforce these sanctions. However, as exemplified in the fourteen cases in the previous chapter, sanctions are not uniformly enforced and military action is reliant on the availability of forces from states willing to contract them for the UN’s use. The current Chapter VII reality is selective sanctions with erratic enforcement. Continued informal changes demonstrate adaptability and future changes may result in the improvement to sanction methods. However, there is no guarantee of the advocacy of sanctions for each eligible crisis. Currently, enforcement only occurs through the UN’s contracting for military forces, or when Security Council member(s) have a vested interest to collectively enforce a resolution outside the purview of the UN.

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<sup>113</sup> Larry L. Fabian, *Soldiers without Enemies: Preparing the United Nations for Peacekeeping*, (Washington, D.C.: The Brookings Institution, 1971), 233.

<sup>114</sup> Francis O. Wilcox, “How the United Nations Charter has Developed,” *The Future of the United Nations: Issues of Charter Revision*, Sellin, Thorsten, ed., (Philadelphia: American Academy of Political and Social Science, 1954), 12-3.

The FAS of accepting Chapter VII real world usage (either formally or informally) is as follows. Business as usual is always feasible but it does not always accomplish the mission. The relatively low level of effectiveness demonstrated in the fourteen cases is far from acceptable unless one accepts the notion Chapter VII has gotten the world this far. The cost of continuing to do business this way may lead to the ruin of the UN's credibility as an international organization. UN attempts to continue to play on the world stage as if it had a military force is a misallocation of resources that will eventually culminate when the world tires of minimal returns for maximum investment. Continuing with informal changes is not suitable since they do not accomplish the objectives of the Chapter VII resolutions. Since there is no guarantee for fixing past issues, it would not be feasible, acceptable or suitable for the proposal that the UN accept the status quo for Chapter VII operations. The issue with accepting things as they are is that they may not be good enough in the long run.

Another Chapter VII view is to completely outfit the UN to fulfill its Chapter VII mandate. Enabling Chapter VII requires the allocation of member states' militaries to the UN Security Council's direct control or standing up a UN military force. Discussions on the size, source and stature of a standing Security Council force that would give the UN real teeth to enforce Chapter VII continues. Secretaries General, have conducted periodic reviews of the UN. These have resulted in UN reports and addresses to the General Assembly recommending improvements to the organization and the UN Charter. One of these reports is *An Agenda for Peace* by Boutros-Ghali.<sup>115</sup> This report outlines the possibility of reviving Article 43 with the provision of a standing force. These can be further broken down into piecemeal improvement in the support of the Articles. One of these solutions is the identification of forces for ad hoc deployment to UN contingencies. Accepted as a more realistic development, many concur with the Boutros-Ghali

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<sup>115</sup> *An Agenda for Peace* by Boutros-Ghali Position paper of the Secretary-General on the occasion of the fiftieth anniversary of the United Nations, entitled "Supplement to an Agenda for Peace". See Boutros Boutros-Ghali, "Supplement to an Agenda for Peace," 1995. Internet site: <http://www.un.org/Docs/SG/agsupp.html>, accessed 15 March 2003.

proposal of national stand-by “building blocks” to deploy as a UN force.<sup>116</sup> Those that state the UN should have a standing army are countered by those that warn of the imperialist UN.

The ramifications of allocating elements of the US military to the UN could be viewed as nothing more than certain units being on green cycle in direct support and under the direct control of the UN. The MSC would keep planners abreast of recent developments and potential missions and units would be in line to deploy to areas to enforce sanctions and or implement peace under the auspices of an able and not ailing Chapter VII. Though many do not support a non-US individual in charge of US forces, the most critical hurdle for Article 43 is the issue of national sovereignty. In addition the “profound difference between the permanent members on the composition, directions, stationing and size of the forces”<sup>117</sup> makes this solution un-acceptable at this time. “The placing in the hands of the United Nations of the means to enforce decisions involving international peace and security”<sup>118</sup> is not in the realm of possibility.

The FAS of outfitting the UN with the means to conduct Chapter VII is as follows. A world which operates knowing the emergency service is in place to send out the police (enforcers) would think twice before non-compliance with sanctions and other Chapter VII resolutions. Though in an idealistic world this would be perfectly acceptable and suitable, a world military is not feasible today. Of course there are those that will continue to argue for a military to counter the “alternative” of letting “the world drift willy-nilly towards disaster, borne on the ancient tides of power politics and war.”<sup>119</sup>

The aforementioned proposals do not meet the requirement for effective resolutions; there is no clear task and purpose nor are they resourced with the means and ways to achieve the ends. A

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<sup>116</sup> Roberts and Kingsbury, 37.

<sup>117</sup> Nabil Elaraby, “The Office of the Secretary General and the Maintenance of International Peace and Security,” *The United Nations and the Maintenance of International Peace and Security*, UNITAR, (Boston: Martinus Nijhoff Publishers, 1987), 183.

<sup>118</sup> Carlos Romulo, “Strengthening the United Nations,” *The Future of the United Nations: Issues of Charter Revision*, Sellin, Thorsten, ed., (Philadelphia: American Academy of Political and Social Science, 1954), 19.

<sup>119</sup>Ibid.

successful resolution would be either a sanction that achieved the pre-defined endstate within a designated time or one that would have the means accessible if after the deadline passed, could proceed to the next level of enforcement. Many of the reviewed resolutions never met their objective. They only achieved their aims because of some outside influence (death of a rebel leader, national led coalition). Chapter VII alone could not accomplish the mission. Since an attempt to “courageously …bridge the gap between what is possible and what is necessary”<sup>120</sup> is not in the realm of possibility another solution is needed. A shift from trying to make Chapter VII work to scoping down the UN’s role and missions under Chapter VII is the feasible, acceptable and suitable answer.

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<sup>120</sup>Ibid.

## CHAPTER FOUR

### **The Future of Chapter VII**

In order to demonstrate one has learned from the lessons of the past, one must tear down structures deemed to be ineffective especially if there is to be hope for success in the future. The relatively ineffective implementation by the UN of Chapter VII sanctions as displayed by the fourteen cases and the assessment of views on Chapter VII in the previous chapters leads to the conclusion it is time for total reform.

Alternatives to Chapter VII already exist. These include sanctions and military actions by individual nations, regional alliances and coalitions. These two forms of diplomacy can and are conducted in complement to the UN's other efforts to promote peace and security. To attain this effective reality one must accept that there is no need for the majority of Chapter VII's articles. In this ongoing era of national sovereignty, individual nations and regional alliances are better suited to conduct the Chapter VII type missions envisaged in the UN Charter.

Thus, the UN needs to close the gap between idealism and realism. For the past sixty years the UN has been crying wolf with its Chapter VII resolutions. It has imposed sanctions without the means or often the will to back them up. Though Chapter VII is supposed to be the UN's hammer, the parameters of its articles have never "really" delivered its full force due to a deficit between ends, ways, and means. The UN can only perform the bare minimum of activities under Chapter VII and relies on its member states to provide "contracted" forces on their terms.

For the UN to be an enforcer organization it needs to close this gap. The gap exists because of the following. First, Chapter VII is currently limited to "measures not involving the use of armed force" (Article 41, Chapter VII). Second, Chapter VII is not used equitably or not every grievance that meets Chapter VII criteria is being addressed. Third, Chapter VII sanctions' have no standards of implementation (no timeline, lack of analysis of second, third order effects and only recent efforts for precision sanctions to limit humanitarian effects which are viewed as the

cost of doing business). Fourth, there is no guarantee of UN member states' compliance with sanctions. Last, the UN does not have direct access to or control of a military force to enforce Chapter VII resolutions.

The UN Security Council should relinquish its role to "decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security" and all the enabling articles (43, 44, 45, 46, 47, 48, 49 and 50) that are linked to this mandate. These articles cover the UN's use of sanctions and the resourcing, staff support for planning and employment of a UN military force. The previous chapters covered the minimal success attained with UN sanctions and explained the unattainable objective of the UN with its own military force.

The only segments of Chapter VII that should be maintained are modifications to Articles 39, 40 and Article 51: Article 39. The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations.

Article 40. In order to prevent an aggravation of the situation, the Security Council may, call upon the parties concerned to comply with provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures. Article 51. Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the *amended Charter* to take at any time *actions available to the Security Council* to maintain or restore international peace and security. In addition, the UN needs to amend Chapter VI to capture the informal Charter change of

peacekeeping to which Chapter VII capabilities but not pure military enforcement actions need to be added.<sup>121</sup>

### **Chapter VII Idealism**

There are those that believe the UN can and will close between the gap between requirements and capabilities. For Chapter VII to succeed as it is written today, the following would have to exist. First, a non-selective standardized system that implements sanctions for all eligible cases. Second, a system that demonstrates its willingness to take the next step when the initial tool pulled out of the UN toolbox “Sanctions” do not work. Third, a system with delineated consequences that is willing and able to draw on an established chain of support – alert levels – emergency procedures, whereby the moment a resolution imposing a sanction is passed, places forces for enforcement are on standby to perform if and when the sanction(s) fail. Fourth, a system that is not hampered by debates on support availability and constraints, but instead, is able to act judiciously. Unfortunately, hope is not a method and reality cannot in the case of the UN and Chapter VII be easily overcome. It is time for the UN to give up on Chapter VII. The world did soon after the ink dried on the original Charter.

### **Current Chapter VII Reality**

Had the previous system been in place during the last ten years there would have been instant reprisals when Iraq violated resolutions agreed upon by the Security Council. Instead, time passed and the disparity in views on how to handle Iraq increased. The sanctions continued to harm the populace but not the targeted regime. Nor was there any real expectation that the UN would go in and remove Osama bin Laden from Afghanistan and so the Taliban continued to operate in defiance of the UN.

The real examples of UN ineffectiveness highlight there is not much the UN can do under Chapter VII. As long as there is a gap between aspirations and performance, the UN maintains a

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<sup>121</sup> Quincy White, “Human Rights and Charter Revision,” *The Future of the United Nations: Issues of Charter Revision*, Sellin, Thorsten, ed., (Philadelphia: American Academy of Political and

reputation of an idealistic but marginal security organization. This could lead to the UN losing all credibility. Many believe the UN is already on the road to extinction and will go the way of the League of Nations.

Iraq and Afghanistan evolved from Chapter VII sanctions to a semblance of “Chapter VII” military enforcement. In Afghanistan, the UN tightened sanctions and waited. September 11th jump-started the invasion of Afghanistan and enforcement of resolutions. But it was the US and not the UN that spearheaded the response in Afghanistan and the war on terrorism. In the case of Iraq sanctions were repetitively enacted between 1991 and 2002. In 2003 members of the UN invaded Iraq, not with the backing of Chapter VII but as a US led mission. The US could easily conclude the UN was not going to collectively act in the case of Iraq and proceeded to act unilaterally. Iraq could be the straw that broke the camels back in the realm of Chapter VII reform. When the US proceeded to execute the 2003 war in Iraq the UN was shown to be ineffective in precluding this action either by enforcing its Chapter VII resolutions against Iraq or stopping a members state from invading another. When historians review the steps taken to invade Iraq they will present their assessment on how a nation state went to the UN for “support” then invoked its ultimatum of going into Iraq with or without the UN. The future will tell whether this lead to the downfall of the UN, disbanding of the Security Council or the redefinition of the UN as a global humanitarian society working in conjunction with short term global security alliances each with a specified task and purpose.

The developing pattern is not the UN spearheading Chapter VII enforcement but instead unilateral or coalition-initiated action with or without UN diplomatic support. The UN needs the states’ militaries but the member states do not need the UN. Militaries have operated both with and without the backing of the UN. Unilateral tendencies by states determined to enable their own agendas overrides their willingness to support a UN led force. Nations also have other ties that link them together. The ECOMOG and British in Sierra Leone came to the aid of the UN

peacekeeping forces but did not do so under the auspices of the UN. They were able to impose a semblance of peace and security by working together.

The UN cannot do it all in the current geo-political environment. For many of its member states the military is a tool with which to meet individual political aims. The world supports the UN as a diplomatic organization, but a military within a diplomatic organization is not currently feasible. Thus it is not time for a UN military and without this enabling arm the UN Chapter VII is hollow. For many nation states, the military is a part of their four elements of power or DIME (Diplomacy, Information, Military, Economy). This reliance will continue. Since the M will not DIE, the UN will not get its own military.

Chapter VII's hampered performances feed the flames of negative perceptions. An amended Chapter VII would adjust the UN's list of essential tasks. This which would put the onus back on the states that up until now conveniently blamed the UN for dragging out issues in its attempts to execute Chapter VII. When and if nations want to impose sanctions or unite to accomplish a security enforcement role the UN does not have to be involved except as a forum to debate crises. The NATO IFOR mission in Bosnia is a perfect example.

Thus, Chapter VII responsibility should remain with coalitions – i.e. NATO, OAS (Organization of African States)<sup>122</sup> EU (European Union) and ECOWAS. This is still the era of national sovereignty and when nations want to act in Chapter VII fashion they will unite and support each other on their own terms. Though some say the blocks being developed in Europe and South America are the new sovereignties individual nations will continue to jostle for hegemonic position. It is still for the good of the state that nations operate. Thus members will proceed with their own agendas, which will have to be justified on the world stage. And time will tell whether the world or the US was right in ousting the regime of Saddam Hussein. Historians

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<sup>122</sup>Kaplan endorses a global constabulary force more likely to emerge from NATO. Robert D. Kaplan, *The Coming Anarchy*, (New York: Vintage Books, 2000), 180.

will look back and either come to the conclusion this was either the start of the end of a world global power (on the scale of the fall of Rome) or the real start to the Middle East peace process.

Changing Chapter VII is only one of many reforms that have to take place to make the UN a more efficient and effective organization. By doing away with sanctions and military enforcement the UN will not have to struggle with the expectation of going to the next level when sanctions do not result in the intended end state without a force to execute the action. Nor will the UN be responsible to “handle” sanctions busting with members violating sanctions that are not conducive to their interests.

#### **What the UN can do now – Recommended Changes**

The United Nations without a military is an organization with a different mission. The UN’s successes in the past should be its focus for the future. The UN “has served as an important channel of communications between states and as a funnel through which funds and technical assistance are given to the bulk of the underdeveloped countries of the world.”<sup>123</sup> This shift in attitude accepts the UN would promote global security through education, economic opportunity, peace keeping, humanitarian aid, to name a few.

Though the UN has never planned, led and executed a Chapter VII operation there is growing acceptance to enabling the UN to conduct Chapter VI ½ operations. Peacekeeping reforms highlight the UN’s ability to adapt and improve existing capabilities. The UN’s reformation of peacekeeping operations started with a critical self-assessment after failed missions in the 1990’s.<sup>124</sup> This led to the applications of Chapter VI lessons learned from 50 years of peace keeping as well as from non-UN operations to include the NATO IFOR mission in Bosnia.

Scathing self-assessments such as the Brahimi Report and initiatives such as SHIRBRIG will make Chapter VI more responsive and effective. The establishment of the multi-national

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<sup>123</sup>Vincent, xi.

<sup>124</sup>UN Security Council, “Report of the Panel on United Nations Peace Operations,” a.k.a. the “Brahimi Report” A/55/305 - S/2000/809. Internet site: [http://www.un.org/peace/reports/peace\\_operations/](http://www.un.org/peace/reports/peace_operations/), accessed 8 September 2002.

SHIRBRIG with a standing headquarters capable of planning for, leading, training and equipping a high readiness peacekeeping force is another sign of reform. If the forces deployed to Rwanda had been operating under a broader Chapter VI Implementation ROE, the Belgian soldiers protecting the Rwandans would never have given up their weapons and would have fought to the death rather than be taken alive, humiliated and slaughtered. Chapter VI of the Charter needs to be amended to incorporate these changes. However, any variance of Chapter VI (.5) is not Chapter VII.

The scathing self-analysis by the United Nations with subsequent reforms could lead an idealist to believe the UN could improve Chapter VII. But improvements leading to a better-executed Chapter VI do not guarantee or support the feasibility of a new and improved Chapter VII. The UN cannot come to the rescue with UN forces since the world is not ready for a UN military. The UN's sole Chapter VII role would be to advertise crisis and influence the will of nations to react to crisis. Under the amended Article 39 and 40 the UN would be a voice to mobilize national and popular support for involvement. The influential voices of the masses can be harnessed, as exemplified by the world's unity against apartheid. This leaves wars to nations and coalitions but gives the blue helmets a better way of keeping the peace and the other UN agencies a critical role in promoting security.

### **New Sanctions Monitoring Role**

The UN needs to forego its sanctions role. The UN cannot fairly impose nor enforce sanctions on all who deserve them. Nor has the UN been able to make sanctions more effective through the use of sequentially stringent resolutions to enforce compliance. The solution is to leave it up to the nations to individually / collectively impose sanctions as a thought out diplomatic tool. The UN's new sanctions role would be to publicize and lobby member states to declare sanctions, recommend objectives and monitor compliance and effects. By being the sanctions consumer advocate, the UN can highlight the progress of sanctions imposed by nations and regional coalitions, monitor whether they are hitting their targets and can press the media to

share findings of investigative work with the world. Its recourse for sanctions busters would be to use the importance placed on international image.

There are three positive reasons for implementing sanctions this way. First, if a situation meets sanction criteria the UN will focus the spotlight on it. The UN does not fall into the trap of playing favorites by imposing some sanctions and not others. It is up to individual nations to decide. Of course the UN can use all lobbying tools available to push for action. Second. A layer of bureaucracy is removed – and double indemnity with states imposing their own sanctions anyway. Third. A unified sanctions committee with set standards will monitor sanctions imposed throughout the world.

Efforts to improve UN sanctions should continue and be applied to national / regional sanction usage. The UN can also push to make sanctions more precise to the collateral damage that has plagued them in the past. These include ways to review and redo sanctions when the original reasons have changed or been modified by real events. Sanctions need improvements in monitoring and use of the “or else” factor. Fowler report recommendations are feasible and UN advisors with high tech monitoring devices will be able to better monitor the sanctions. The or else will not be military enforcement. The UN will use “peer pressure” challenges and include the media. The sanctions committee would track the effects of the sanctions and produce open reports to influence violators. The Sixteen Policy Recommendations on Sanctions are a good basis for improvement.<sup>125</sup> Finally, calling on sanctions is different from implementing them. As with the case of military action the UN should accept that it can lobby for sanctions but it will ultimately be up to member nations to implement them.

The UN should not feel that the lack of success in the realm of Chapter VII reflects a failure on its part to promote peace and stability. Instead the UN should view this inadequacy as one

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<sup>125</sup> Written to improve UN sanctions these can be applied to national regional sanctions except for Paul’s remarks which do not support national sanctions. James A. Paul, “Sixteen Policy Recommendations on Sanctions,” *Global Policy Forum*, 31 March 1998. Internet site: <http://www.globalpolicy.org/security/sanction/jpreccs.htm>, accessed 23 March 2003.

amongst many successful accomplishments. The UN is highly capable on many different fronts. Chapter VII is not one of them and until the day the world wants to place the responsibility of Chapter VII type issues solely into the hands of the United Nations the UN should focus its efforts elsewhere; peacekeeping, monitoring, humanitarian aid etc, and leave sanctions and military action to individual nations and unilateral / multilateral coalitions. Until national interests of the UN members no longer come first the UN should operate in ways that it can be effective. For now the world has spoken and the majority is not ready for a UN lead in their lives. “The UN should remain a tool of shifting coalitions and great power struggles.”<sup>126</sup> This does not need UN sanctions or a military enforcement force.

All nations have a role in the United Nations. It is a forum for diplomacy. However, debate has often caused policy paralysis in the case of Chapter VII. The alternative of international intervention does not undermine world order. As a responsibility of sovereign states, operating at times in their own interests as well as others, intervention will attain the goal of promoting peace through efforts for stability and security.

The causes of future conflicts will not guarantee that the solutions will be as they were in the past. Nor does this mean the UN has to be enabled to do what the Charter currently states it should be able to do. The UN will be in a support role and not in the lead to meet the requirements of the ever-evolving aspects of warfare.

This leaves the US with the responsibility to think through the types of “Chapter VII” acts that it will support. This requires a thorough understanding of the military by all levels of decision-making and the effects brought to bear if the military is the means by which policy is imposed. Powell promotes “the use of force should be restricted to occasions where it can do some good and where the good will outweigh the loss of lives and other costs that will surely

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<sup>126</sup>Robert D. Kaplan, *The Coming Anarchy*, (New York: Vintage Books, 2000), 175-6.

ensue.”<sup>127</sup> There is also no turning back for the U.S military’s expanded involvement in operations other than war. It is now part of how the military fights with the inclusion of stability and support operations (SASO) in US military doctrine.

The US military’s transformation continues to progress on three levels through “the role of defense in national security and society, the management of the Defense Department, and the armed forces themselves”<sup>128</sup> to meet the security challenges of the future. The information age is one in which “new threats emerge suddenly, often without warning.”<sup>129</sup> This does not preclude planning and preparing for these threats. Transformation requires planners to “not wait for threats to emerge but rather anticipate them and develop military capabilities.”<sup>130</sup> One of the requirements of this future force is an extensive local knowledge for better coexistence and cultural relationships. The UN is already established in various regions of the world conducting humanitarian, peacekeeping, and environmental missions. The UN’s perspectives could be complementary to accomplishing military missions by supporting an understanding of the potential operational environment. As the US military transforms to meet future challenges there should be an expectation that other organizations in the global security system, to include the UN, are working to operate more effectively to contribute to the successful execution of the full spectrum of warfare.

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<sup>127</sup> John Garofano, *The Intervention Debate: Towards a Posture of Principled Judgment* (Carlisle, Penn.: Strategic Studies Institute, U.S. Army War College, 2002), 40.

<sup>128</sup> Ibid.

<sup>129</sup> Clarence A. Robinson, Jr., “Military Marches Toward Agility,” *Signal*, 6 May 2003.

<sup>130</sup> Arthur K. Cebrowski, Admiral, USN (Ret.), as cited by Clarence A. Robinson, Jr., “Military Marches Toward Agility,” *Signal*, 6 May 2003. Admiral Cebrowski is the Director of the Office of Force Transformation in the Department of Defense.

## **APPENDIX A**

### **Chapter VII**

#### **Article 39**

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

#### **Article 40**

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures, as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

#### **Article 41**

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

#### **Article 42**

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include

demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

#### **Article 43**

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

#### **Article 44**

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

#### **Article 45**

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

## **Article 46**

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

## **Article 47**

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

## **Article 48**

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they remember.

**Article 49**

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

**Article 50**

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

**Article 51**

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

## APPENDIX B

### Amending the UN Charter - Articles 108 and 109

#### Article 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

#### Article 109

A general Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of anynine\*members of the Security council. Each Member of the United Nations shall have one vote in the conference.

Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.

If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

\*This text was amended and went into effect on 12 June 1968.

## APPENDIX C

### **Security Council Functions and Powers**

to maintain international peace and security in accordance with the principles and purposes of the United Nations;

to investigate any dispute or situation which might lead to international friction;

to recommend methods of adjusting such disputes or the terms of settlement;

to formulate plans for the establishment of a threat to peace or act of aggression and to recommend what action should be taken;

to call on Members to apply economic sanctions and other measures not involving the use of force to prevent or stop aggression;

to take military action against an aggressor;

to recommend the admission of new Members and the terms on which States may become parties to the Statute of the International Court of Justice;

to exercise the trusteeship functions of the United Nations in "strategic areas":

to recommend to the General Assembly the appointment of the Secretary-General and, together with the Assembly, to elect the Judges of the International Court.

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